

EXHIBIT 1



**AFREP-
1581548**

**Service of Process
Transmittal**

10/08/2020

CT Log Number 538373279

TO: Andrea Wing
Republic Services, Inc.
18500 North Allied Way
Phoenix, AZ 85054

RE: Process Served in West Virginia

FOR: Allied Waste Services of North America, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: David W. Robinson Jr., Pltf. vs. Allied Waste Services of North America, LLC, etc. and Dane R. Miller, etc., Dfts.

DOCUMENT(S) SERVED: Summons, Cover Sheet, Attachment(s), Complaint, Affidavit

COURT/AGENCY: Wayne County - Circuit Court, WV
Case # CC502020C98

NATURE OF ACTION: Employee Litigation - Personal Injury - 09/19/2018

ON WHOM PROCESS WAS SERVED: C T Corporation System, Charleston, WV

DATE AND HOUR OF SERVICE: By Certified Mail on 10/08/2020 postmarked on 10/05/2020

JURISDICTION SERVED : West Virginia

APPEARANCE OR ANSWER DUE: Within 30 days after service

ATTORNEY(S) / SENDER(S): Kenneth P. Hicks
Kenneth P. Hicks, L.C.
742 Fourth Avenue
Huntington, WV 25701
304-525-3201

ACTION ITEMS: CT has retained the current log, Retain Date: 10/09/2020, Expected Purge Date: 10/14/2020

Image SOP

Email Notification, Andrea Wing AWing@republicservices.com

SIGNED: C T Corporation System
ADDRESS: 1999 Bryan St Ste 900
Dallas, TX 75201-3140

For Questions: 877-564-7529
MajorAccountTeam2@wolterskluwer.com

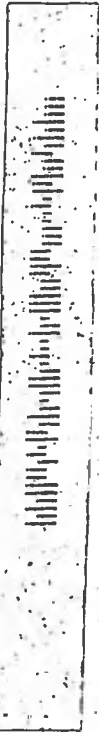
CERTIFIED MAIL



U.S. POSTAGE >>> PITNEY BOWES

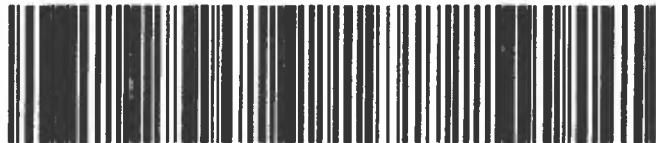


ZIP 25311 \$ 006.65⁰
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0000336734 OCT. 05. 2020



Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305

USPS CERTIFIED MAIL™



9214 8901 1251 3410 0002 7747 80

ALLIED WASTE SERVICE OF NORTH AMERICA, LLC
C. T. Corporation System
1627 QUARRIER ST.
CHARLESTON, WV 25311



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
888-767-8683
Visit us online:
www.wvsos.com

Control Number: 264114

Defendant: ALLIED WASTE SERVICE OF NORTH
AMERICA, LLC
1627 QUARRIER ST.
CHARLESTON, WV 25311 US

Agent: C. T. Corporation System

County: Wayne

Civil Action: 20-C-98

Certified Number: 92148901125134100002774780

Service Date: 10/5/2020

I am enclosing:

1 affidavit, 1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

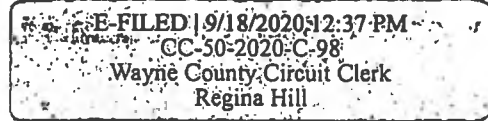
Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

SUMMONS



IN THE CIRCUIT OF WAYNE WEST VIRGINIA

David W. Robinson, Jr. v. Allied Waste Services of North America, LLC d/b/a Republic Services of West Virg

Service Type: Plaintiff - Secretary of State

NOTICE TO: Allied Waste Services of North America, LLC d/b/a Republic Services of West Virg, c/o CT Corporation System, 1627 Quarrier Street, Charleston, WV 25301

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Kenneth Hicks, 742 4th Ave, Huntington, WV 25701

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

9/18/2020 12:37:48 PM

Date

/s/ Regina Hill

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ Not Found in Bailiwick

Date

Server's Signature

RECEIVED FOR
CLERK OF COURT
OCT - 5 A 7:55
COURT OF WEST VIRGINIA

COVER SHEET

E-FILED 11/18/2020 12:37 PM
CC-50-2020-C-98
Wayne County Circuit Clerk
Regina Hill

GENERAL INFORMATION

IN THE CIRCUIT COURT OF WAYNE COUNTY WEST VIRGINIA

David W. Robinson, Jr. v. Allied Waste Services of North America, LLC d/b/a Republic Services of West Virg

First Plaintiff: ☐ Business ☒ Individual ☐ Government ☐ Other First Defendant: ☒ Business ☐ Individual ☐ Government ☐ Other

Judge: Jason Fry

COMPLAINT INFORMATION

Case Type: Civil

Complaint Type: Tort

Origin: ☒ Initial Filing ☐ Appeal from Municipal Court ☐ Appeal from Magistrate Court

Jury Trial Requested: ☒ Yes ☐ No Case will be ready for trial by: _____

Mediation Requested: ☒ Yes ☐ No

Substantial Hardship Requested: ☐ Yes ☒ No

☐ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☐ Other: _____

☐ I am proceeding without an attorney

☒ I have an attorney: Kenneth Hicks, 742 4th Ave, Huntington, WV 25701

SERVED PARTIES

Name: Allied Waste Services of North America, LLC d/b/a Republic Services of West Virg
Address: c/o CT Corporation System 1627 Quarrier Street, Charleston WV 25301
Days to Answer: 30 **Type of Service:** Plaintiff - Secretary of State

Name: Dane R. Miller, general man.
Address: 339 Lynwood Road, Kenova WV 25530
Days to Answer: 20 **Type of Service:** Plaintiff - Private Process Server

E-FILED | 9/18/2020 12:37 PM
CC-50-2020-C-98
Wayne County Circuit Clerk
Regina Hill

IN THE CIRCUIT COURT OF WAYNE COUNTY, WEST VIRGINIA

DAVID W. ROBINSON JR.,

Plaintiff,

v.

CIVIL ACTION NO.:
JUDGE:

**ALLIED WASTE SERVICES OF NORTH
AMERICA, LLC d/b/a REPUBLIC
SERVICES OF WEST VIRGINIA and
DANE R. MILLER, as general manager,**

Defendants.

COMPLAINT

COMES NOW the Plaintiff, **DAVID W. ROBINSON JR.**, by and through his undersigned counsel, **KENNETH P. HICKS, L.C.**, who, for his Complaint, alleges and states as follows:

PARTIES

I.

The Plaintiff, **DAVID W. ROBINSON JR.**, is and was at the time of the incident herein complained of, a resident and citizen of Rush, Boyd County, Kentucky.

II.

Defendant, **ALLIED WASTE SERVICES OF NORTH AMERICA, LLC d/b/a REPUBLIC SERVICES OF WEST VIRGINIA**(hereinafter "**REPUBLIC SERVICES**") is and was at the time of the incident herein complained of, a foreign corporation authorized and doing business in Cabell County, West Virginia.

III.

Defendant **DANE R. MILLER**, as general manager for Defendant Republic Services, Inc., at the time of the motor vehicle incident on September 19, 2018, a resident of Wayne County, West Virginia.

JURISDICTION AND VENUE

IV.

The negligent and other described acts complained of occurred in Wayne County, West Virginia.

COUNT ONE - DELIBERATE INTENT

V.

Plaintiff **DAVID W. ROBINSON, JR.**, realleges and reincorporates each and every allegation contained in the paragraphs above as if set out verbatim herein.

On or about September 19, 2018, Plaintiff, **DAVID W. ROBINSON, JR.**, was in the course of his employment duties with **REPUBLIC SERVICES**, while performing the duties outlined above and **REPUBLIC SERVICES**, through or by its management, agents, representatives and/or employees, and knowingly caused Plaintiff, **DAVID W. ROBINSON, JR.**, to work in an unsafe, improper and dangerous condition.

Defendant, **REPUBLIC SERVICES**, by and through its management, officers, agents, employees, and/or servants, acted with a conscious, intentional and/or deliberate intention to produce the specific result of injury or death to an employee (i.e., Plaintiff, **DAVID W. ROBINSON, JR.**).

In the alternative, the Defendant violated W. Va. Code §23-4-2(d)(ii) as follows:

- i. Defendant, **REPUBLIC SERVICES**, allowed a specific unsafe working

condition to exist in the workplace of Plaintiff DAVID W. ROBINSON, JR. as described above which presented a high degree of risk and a strong probability of serious injury or death;

- ii. Defendant, REPUBLIC SERVICES, its agents and employees, had actual knowledge prior to the injury of the existence of the specific unsafe working condition and of the high degree of risk and the strong probability of serious injury or death presented by the specific unsafe working condition;
- iii. That said specific unsafe working condition was a violation of a state or federal safety statute, rule or regulation, whether cited or not, of a commonly accepted and well-known safety standard within the industry or business of the Defendant, REPUBLIC SERVICES, which statutes, rules, regulations, or standards were specifically applicable to the particular work and working condition involved at the time of Plaintiff's injury herein complained of;
- iv. That notwithstanding the existence of the facts set forth in subparagraphs (i) through (iii) , inclusive of this paragraph, REPUBLIC SERVICES, its agents and employees, nevertheless intentionally thereafter exposed DAVID W. ROBINSON, JR. to the specific unsafe working conditions; and
- v. That DAVID W. ROBINSON, JR. was exposed and suffered serious compensable injuries.

As a proximate result of the above, Plaintiff DAVID W. ROBINSON, JR. suffered the following injuries and damages:

- a. serious personal injuries of a permanent and indefinite duration;
- b. pain and suffering, physical and mental, past, present and future;
- c. loss of enjoyment of life, past, present and future;
- d. loss of capacity to earn an income, and perform household and other related duties, past, present and future;
- e. Past, present and future medical expenses of a sum which can be made certain;
- f. Past, present and future medical expenses which are reasonably certain to occur; and,

Plaintiff DAVID W. ROBINSON, JR. will continue to suffer from these injuries into the indefinite future.

**COUNT TWO
NEGLIGENCE
VI.**

At all times pertinent hereto, Plaintiff, DAVID W. ROBINSON, JR., on March 29, 2018, while in the course of and in furtherance of his employment activities with Defendant REPUBLIC SERVICES, was working for REPUBLIC SERVICES driving a garbage truck in the area of Wayne County, West Virginia. As Plaintiff DAVID W. ROBINSON, JR. was operating the garbage truck for Defendant REPUBLIC SERVICES while traveling north on Ridgelawn road, the brakes of the garbage truck failed and DAVID W. ROBINSON, JR. was unable to stop coming down the hill and entered the roadway on Route 75. As Plaintiff was unable to stop coming down the hill due to the failed brake systems of REPUBLIC SERVICES's garbage truck, DAVID W. ROBINSON, JR. crossed the center line and made contact with the bridge face and

guardrail face. The garbage truck then went over the guardrail and rolled over before coming to a rest on the driver's side at the mouth of Coal Branch road.

Plaintiff, DAVID W. ROBINSON, JR., while performing the above-referenced work duties, was exposed and subjected to such hazardous, unsafe and dangerous conditions which caused him to be seriously injured.

Plaintiff, DAVID W. ROBINSON, JR., believes and asserts that he and the vehicle he was operating for REPUBLIC SERVICES was not properly supplied and maintained with the proper protection equipment necessary to keep him safe while performing his duties in the scope of his employment with REPUBLIC SERVICES, which caused him to suffer serious personal injuries.

As a proximate result of the foregoing, Plaintiff, DAVID W. ROBINSON, JR., suffered the following injuries and damages:

- a. serious personal injuries of a permanent and indefinite duration;
- b. pain and suffering, physical and mental, past, present and future;
- c. loss of enjoyment of life, past, present and future;
- d. loss of capacity to earn an income, and perform household and other related duties, past, present and future; and
- e. Past, present and future medical expenses of a sum which can be made certain; and are reasonably certain to occur.

The Defendants' negligence and breach thereof caused the Plaintiff's injuries and damages. Plaintiff, DAVID W. ROBINSON, JR., will continue to suffer from these injuries into the indefinite future.


WHEREFORE, Plaintiff, DAVID W. ROBINSON, JR., demands judgement against Defendant ALLIED WASTE SERVICES OF NORTH AMERICA, LLC d/b/a REPUBLIC SERVICES OF WEST VIRGINIA, in an amount which will fully compensate him for his

aforesaid injuries, along with pre-judgement and post-judgement interest, court costs, and such further sums as this Court may deem appropriate for attorney fees for services in this action; and for such other relief as this Court deems proper.

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL ISSUES.

DAVID W. ROBINSON, JR.

By Counsel



Kenneth P. Hicks, Esquire (WV Bar #5063)

KENNETH P. HICKS, L.C.

742 Fourth Avenue

Huntington, WV 25701

Telephone: (304) 525-3201

Facsimile: (304) 525-4700

Counsel for Plaintiff

AFFIDAVIT PURSUANT TO W. Va. CODE '23-4-2

STATE OF WEST VIRGINIA)
COUNTY OF CABELL)

I, Gary L. Winn, Ph.D., CHST, hereby affirm and state as follows:

1. I hold an earned Ph.D. in Industrial Technology Education from The Ohio State University;
2. I am a retired fully-promoted professor in the Industrial and Management Systems Engineering Department at West Virginia University where I taught courses in the Safety Management (SAFM) MS and PhD programs for 31 years;
3. I hold OSHA teaching certifications and a certification-by-examination known as the Construction Health and Safety Technician offered by the Board of Certified Safety Professionals;
4. I developed and taught graduate and undergraduate courses in Freshman Engineering Design, Construction Safety Management, General Industry Legislation and Compliance, Safety and Health Training, Safety Management Integration, Industrial Hygiene Instrumentation, and Practical Leadership in Safety and Health.
5. I have previously been recognized by the Circuit Courts of the State of West Virginia as an expert in workplace safety and industrial hygiene, and I have knowledge and expertise in the fields of workplace safety statutes, rules, regulations, and consensus industry safety standards;
6. I am familiar with the incident pertaining to the injuries sustained by Mr. Anthony

Mullins and Mr. David Robinson on or about September 19, 2018 while driving a 2006 Mack garbage truck at the mouth of Ridgelawn Road and Route 75 in Kenova, Wayne County, West Virginia;

7. Both Mr. Mullins and Mr. Robinson were employed by Republic Services, Inc./Allied Waste Services on September 19, 2018. Both Mr. Mullins and Mr. Robinson were riding in the garbage truck, with Mr. Mullins as the driver and Mr. Robinson as the passenger. The brakes and other equipment failed to work properly, which caused the truck to fail to stop at a stop sign at Ridgelawn Road and U.S. Route 75 in Wayne County, near Kenova, West Virginia. The truck proceeded to strike a bridge and then roll over, causing both occupants to be severely injured;

8. The specific unsafe working conditions violated the following safety statutes, rules, and/or consensus industry safety standards:

49 CFR 396.3(a):

Every motor carrier shall systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles subject to its control.

49 CFR 396.(a)1:

Parts and accessories shall be in safe and proper operating condition at all times. These include those specified in part 393 of this subchapter and any additional parts and accessories which may affect safety of operation, including but not limited to, frame and frame assemblies, suspension systems, axles and attaching parts, wheels and rims, and steering systems.

49 CFR 396.7(a)

Commercial motor vehicles (CMVs) must not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle.

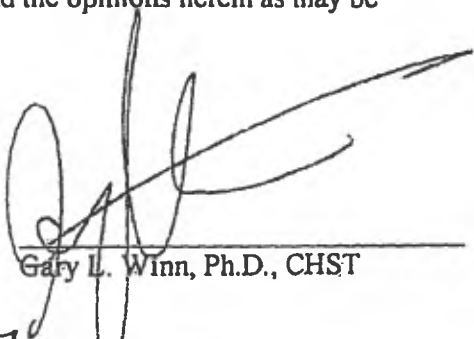
9. In connection with my review, I identified the following unsafe working

conditions including: the brakes were defective on the truck and the truck was possibly overloaded and exceeded the recommended weight limit;

10. The specific unsafe working conditions identified herein were present during the operation of the garbage truck that Mr. Mullins was operating for his employer on September 19, 2018 and the specific unsafe working conditions referenced above caused both Mr. Mullins and Mr. Robinson to suffer serious and permanent injuries;
11. The opinions expressed herein are stated to a reasonable degree of certainty within my field of expertise;
12. The opinions expressed herein are based wholly on materials available to me at the time I performed my review of this matter;
13. I reserve the right to review any document that may later be generated and/or supplied to me, and to supplement or amend the opinions herein as may be appropriate in my professional opinion:

FURTHER AFFIANT SAYETH NAUGHT.

Dated:


Gary L. Winn, Ph.D., CHST

Taken, subscribed, and sworn to before me this 17 day of September, 2020.


Notary Public

My commission expires: 04-13-2021

